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10/783,640	02/20/2004	Raymond P. Silkaitis	7135USO3	7339

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EXAMINER	
SOREY, ROBERT A	

ART UNIT	PAPER NUMBER
3626	

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05/10/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/783,640	SILKAITIS ET AL.	
	Examiner	Art Unit	
	ROBERT SOREY	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 February 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *14-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *14-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

1. In the amendment filed 02/09/2010, the following occurred: claims 1-13 were cancelled; and claims 14-23 were added. Claims 14-23 are presented for examination.

Response to Specification Amendment

2. In the amendment field 02/09/2010, Applicant amended the specification to correct minor errors mainly concerning references to figures and elements associated therewith; these amendments are accepted and entered.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. **Claims 14-19 and 21-23** are rejected under 35 U.S.C. 103(a) as being unpatentable over 2002/0038392 to De La Huerga in view of U.S. Patent 7,154,397 to Zerhusen.

5. As per claim 14, De La Huerga teaches a system for administering medication to a patient comprising:

--an infusion pump comprising: a pump housing (Fig. 17 and 26)(see: De La Huerga, paragraph 145, is met by pump includes a housing),

--a processor that acts as a web server disposed in the pump housing (Fig. 17 and 26)(see: De La Huerga, paragraph 145, is met by controller portion of the pump

including a processor and accessible memory; and 149, is met by processor also linked to a communication channel such as an intranet or the Internet for communication with other facility or remote computing and storage devices),

--a unitary display located on the pump housing and in communication with the processor (Fig. 17 and 26)(see: De La Huerga, paragraph 145, 148, and 149, is met by display linked to the processor),

--the display comprising a first portion and, the first portion displaying pump information while (Fig. 17 and Fig. 18)(see: De La Huerga, paragraph 173, is met by parameter settings displayed on pump screen; paragraph 152, is met by flow rate, duration, dose, and volume; and paragraph 164, is met by information being displayed on screen so that physician can visually confirm basic information (e.g., patient name, general physical characteristics)).

De La Huerga does teach a display with touch screen keys on a computer linked and associated with the pump (see: De La Huerga, paragraph 163), but does not specifically teach that the display is a *dual function touch screen*; however, it would have been obvious to one of ordinary skill in the art at the time the invention was made for the pump display to have touch screen capabilities with the motivation of reducing the number of components and size of the device (touch screens function as both an input and output device).

De La Huerga teaches a processor in a intravenous pump linked to a communication channel such as an intranet or the Internet for communication with other facility or remote computing and storage devices (see: De La Huerga, paragraph 145

and 149), but does not specifically teach *a second portion* wherein *the second portion concurrently displays web browser information*; however, Zerhusen teaches a touch screen (see: Zerhusen, column 5, lines 54-67; and column 13, lines 42-59) with two portions displayed simultaneously (Fig. 43, first portion is met by ele. 630 and concurrently shown second portion is met by ele. 632)(see: Zerhuzen, column 14, lines 3-12) and a second of which is configured to display an Internet icon and a customized home page or other Internet connection being made (Fig. 43, ele. 658)(see: Zerhusen, column 14, lines 3-12; column 16, lines 40-47; column 34, lines 4-32; and column 35, lines 5-20).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of De La Huerga and Zerhusen. The well known elements described are merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

6. As per claim 15, De La Huerga teaches the invention substantially as claimed, see discussion of claim 14, and further teaches:

--wherein the pump information comprises a digital photo of a patient the infusion pump is currently associated with (Fig. 49)(see: Zerhusen, column 14, line 56 through column 15, line 3, is met by computer generating a screen that includes the patient's name, time, scheduled medication to give, schedule does to give, and methods of

administration, an image or photo of the patient illustratively displayed to confirm that the patient is the correct patient).

7. As per claim 16, De La Huerga teaches the invention substantially as claimed, see discussion of claim 14, and further teaches:

--wherein the pump information comprises pump monitor information (Fig. 17 and Fig. 18)(see: De La Huerga, paragraph 173, is met by parameter settings displayed on pump screen; paragraph 152, is met by flow rate, duration, dose, and volume; and paragraph 164, is met by information being displayed on screen so that physician can visually confirm basic information (e.g., patient name, general physical characteristics).

8. As per claim 17, De La Huerga teaches the invention substantially as claimed, see discussion of claim 16, and further teaches:

--wherein the pump monitor information includes infusion pump operating parameters selected from a group of infusion pump operating parameters consisting of dose, rate, duration and volume (Fig. 17 and Fig. 18)(see: De La Huerga, paragraph 173, is met by parameter settings displayed on pump screen; and paragraph 152, is met by flow rate, duration, dose, and volume).

9. As per claim 18, De La Huerga teaches the invention substantially as claimed, see discussion of claim 14, and further teaches:

--wherein the processor is in communication with a web browser client device that is remote from the pump (Fig. 17 and 26)(see: De La Huerga, paragraph 145, is met by controller portion of the pump including a processor and accessible memory; and 149, is met by processor also linked to a communication channel such as an

intranet or the Internet for communication with other facility or remote computing and storage devices).

10. As per claim 19, De La Huerga teaches the invention substantially as claimed, see discussion of claim 18, and further teaches:

--wherein the processor supplies the web browser client device with web browser information (Fig. 43, ele. 658)(see: Zerhusen, column 14, lines 3-12; column 16, lines 40-47; column 34, lines 4-32; and column 35, lines 5-20, is met by an Internet icon and a customized home page or other Internet connection being made, and a browser for interfacing with server and the Internet, software configured to provide internet access to websites).

11. As per claim 21, De La Huerga teaches the invention substantially as claimed, see discussion of claim 18, and further teaches:

--wherein the processor supplies the web browser client device with pump information (see: Zerhusen, column 1, lines 25-43, is met by computer receiving automatically information from various monitors including IV pumps; column 6, lines 1-7, is met by treatment device connected to the computer; and column 36, line 25 through column 37, line 4, is met by patient record retrieval and input, patient physiological monitoring, and medication management).

12. As per claim 22, De La Huerga teaches the invention substantially as claimed, see discussion of claim 14, and further teaches:

--a medication management unit in electronic communication with the infusion pump and having a processing unit and a storage medium coupled to the processing

unit, the storage medium containing programming code executed by the processing unit to (Fig. 17 and 26)(see: De La Huerga, paragraph 145, is met by controller portion of the pump including a processor and accessible memory; and 149, is met by processor also linked to a communication channel such as an intranet or the Internet for communication with other facility or remote computing and storage devices):

-store infusion pump operating parameters specific to a patient (Fig. 17 and Fig. 18)(see: De La Huerga, paragraph 152, is met by flow rate, duration, dose, and volume); *and a digital photo of the patient in the storage medium* (Fig. 49)(see: Zerhusen, column 14, line 56 through column 15, line 3, is met by computer generating a screen that includes the patient's name, time, scheduled medication to give, schedule does to give, and methods of administration, an image or photo of the patient illustratively displayed to confirm that the patient is the correct patient);

As per the limitations:

-transmit the infusion pump operating parameters specific to a patient and the digital photo of the patient from the medication management unit to the infusion pump; and

--wherein the processor of the infusion pump receives the infusion pump operating parameters specific to a patient and the digital photo of the patient from the medication management unit and displays the infusion pump operating parameters specific to a patient and the digital photo of the patient as pump information.

They are taught by the combination of De La Huerga and Zerhusen. De La Huerga teaches parameter settings displayed on pump screen including flow rate, duration, dose, and volume and information being displayed on screen so that physicians can visually confirm basic information (e.g., patient name, general physical characteristics)(Fig. 17 and Fig. 18)(see: De La Huerga, paragraph 173; paragraph 152; and paragraph 164). Zerhusen teaches a computer generating a screen that includes the patient's name, time, scheduled medication to give, schedule does to give, and methods of administration, an image or photo of the patient illustratively displayed to confirm that the patient is the correct patient (Fig. 49)(see: Zerhusen, column 14, line 56 through column 15, line 3).

13. As per claim 23, De La Huerga teaches the invention substantially as claimed, see discussion of claim 15, and further teaches:

--wherein the digital photo of a patient the infusion pump is currently associated with is transmitted directly to the infusion pump by a patient identification indicator device located on the patient (see: Zerhusen, column 14, line 56 through column 15, line 3, is met by scanning patient wristband to receive patient identification and based thereon generates the patient information, including image or photo of the patient, for confirmation by the caregiver).

14. **Claim 20** is rejected under 35 U.S.C. 103(a) as being unpatentable over 2002/0038392 to De La Huerga in view of U.S. Patent 7,154,397 to Zerhusen further in view of U.S. Patent 6,208,974 to Campbell.

15. As per claim 20, De La Huerga teaches the invention substantially as claimed, see discussion of claim 19, and as per the limitation:

--wherein the web browser information includes a caregiver task list.

De La Huerga teaches a communication channel such as an intranet or the Internet for communication with other facility or remote computing and storage devices (Fig. 17 and 26)(see: De La Huerga, paragraph 145; and 149) and Zerhusen teaches a customized home page or other Internet connection being made (Fig. 43, ele. 658)(see: Zerhusen, column 14, lines 3-12; column 16, lines 40-47; column 34, lines 4-32; and column 35, lines 5-20), but neither specifically teach information including *a caregiver task list*; however, Campbell teaches network access of by doctors and nurses of to-do lists (Fig. 11 and Fig. 12)(see: column 5, line 35 through column 6, line 27; column 19, lines 24-43; and column 25, lines 3-21).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of De La Huerga, Zerhusen, and Campbell. The well known elements described are merely a combination of old elements, and in the combination, each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Response to Arguments

16. Applicant's arguments from the response filed on 02/09/2010 have been fully considered and will be addressed below in the order in which they appeared.

17. In the remarks, Applicant argues in substance that (1) all of the previously presented claims have been cancelled and allowance should be granted based on the newly added claims.

The Examiner respectfully disagrees. Applicant's arguments are not persuasive. The claims are met by the cited prior art as detailed in the rejections above.

Additional note is made here concerning the claimed nonfunctional descriptive material. The Examiner placed little weight on what of what information was being displayed in the independent claim (i.e., the pump information and the web browser information) since the effect of displaying did not alter or change system. Any like system capable of displaying in the manner claimed by Applicant - no matter the information being displayed – meets Applicant's invention. Therefore, the pump information and web browser information in the claims is nonfunctional descriptive material - meaning that the content information carries little weight. Though the nonfunctional descriptive material need only be given little weight, the Examiner was able to cite prior art that read upon the nonfunctional descriptive material in the rejections above. See: Ex parte Herman Mathias, Appeal No. 2005-1851, Application No. 09/612788; and Ex parte James Prescott Curry, Appeal No. 2005-0509, Application No. 09/449237.

Conclusion

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

19. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT SOREY whose telephone number is (571) 270-3606. The examiner can normally be reached on Monday through Friday, 8:30AM to 5:00PM (EST).

21. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on (571) 272-6787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

22. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. S./
Examiner, Art Unit 3626

/Robert Morgan/
Primary Examiner, Art Unit 3626